

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

McARTHUR LYNCH, JR.,
#179533,

Petitioner,

v.

WALTER MYERS, Warden for
Easterling Correctional Facility,
STATE OF ALABAMA, and
STEVEN T. MARSHALL,
Attorney General for the State of
Alabama,

Respondents.

CASE NO. 3:16-CV-73-WKW

ORDER

Before the court is the Recommendation of the Magistrate Judge that Petitioner's 28 U.S.C. § 2254 petition be dismissed as time-barred. (Doc. # 24.) Petitioner has filed objections. (Doc. # 25.) Having conducted an independent and *de novo* review of the Recommendation, *see* 28 U.S.C. § 636(b), and having construed Petitioner's objection with the leniency afforded *pro se* litigants, the court concludes the objection is due to be overruled.

Petitioner's conviction became final on September 11, 2013, and the statute of limitations to file a § 2254 petition expired on September 11, 2014. Petitioner did

not file his § 2254 petition until January 26, 2016. As correctly detailed in the Recommendation, Petitioner has not shown that he is entitled to statutory or equitable tolling. Nor has he made a colorable claim of actual innocence.

Petitioner's objections fail to address or undermine the Recommendation's findings regarding the statute of limitations, statutory and equitable tolling, and actual innocence. Instead, Petitioner mainly reargues the merits of some of his time-barred substantive claims. Petitioner's objections, therefore, are due to be overruled.

Accordingly, it is ORDERED as follows:

1. Petitioner's objections to the Magistrate Judge's Recommendation (Doc. # 25) are OVERRULED;
2. The Recommendation of the Magistrate Judge (Doc. # 24) is ADOPTED;
3. The petition for writ of habeas corpus under § 2254 is DENIED; and
4. This action is DISMISSED with prejudice because it was filed after the expiration of the one-year limitation period in § 2254(d).

DONE this 18th day of April, 2018.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE